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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,875	06/26/2003	Bradley J. Haymond	14023	5257

7590 09/29/2006
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EXAMINER

WILLIAMS, MARK A

ART UNIT PAPER NUMBER

3676

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,875

Applicant(s)

HAYMOND

Examiner

Mark A. Williams

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 15, 17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 15, 17, and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8, 15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szonn, US Patent 3,368,806, in view of Niese, US Patent 5,303,526.

Regarding claims 1-4, 6, 15, and 17, Szonn provides a bumper device comprising a bumper body including a solid base 1, a ring-shaped portion 3, and a concentrically positioned center portion 1c extending upwardly from the base (see figure 1—it is obvious to turned in the reverse direction and achieve the same results for a particular application), the center portion defining a top end extending above a top portion of the ring-shaped portion. The ring-shaped portion defines a proximal end having a thickness and a distal end having a thickness, and wherein the ring-shaped portion tapers such that the thickness at the proximal end is greater than the thickness at the distal end. The ring-shaped portion is formed at a

periphery of the base, as claimed. The device is of relatively soft elastic material. The center portion is conical. A channel is provided as claimed. The device is capable of functioning as claimed.

Szonn provides the claimed invention except the indentation and the orientation of the indentation relative to the top portion of the ring-shaped portion in the uncompressed and fully compressed states, and the indentation defining a trapped sound area, as claimed.

Niese teaches the general concept of providing an indentation in a conical bumper body for the purpose of providing means for attachment of an additional element to the bumper body (see figure 5, at element 24). It would have been obvious at the time the invention was made for one skilled in the art to have included such a modification in the device of Szonn, for the purpose of providing means for attachment of an additional element to the bumper body, as desired.

Regarding the limitation with respect to a trapped sound area in the compressed state, it is believed that such a limitation would be obvious to the combination, since at least a minimum amount of sound would be trapped by the indentation of the resulting combination.

Regarding the orientation of the indentation relative to the top portion of the ring-shaped portion in the uncompressed and fully compressed states, such a

limitation is obvious and is based on a combination of the depth of the indentation, stiffness of the elastic material, and the degree of force applied.

Regarding claims 5, 8, and 18, it is known in the art to use such material for elastic components. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected such material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Such a modification is not critical to the design and would have produced no unexpected results. Such material is well known for its elastic properties.

Response to Arguments

3. Applicant's arguments with respect to claims of record have been fully considered but are not persuasive.

Applicant argues that Niese does not solve the deficiency of Szonn in meeting the claimed limitations, since applicant's invention is not concern with means of attaching elements to the bumper. However, it is the position of the examiner that the resulting combination would inherently provide structure

meeting the claimed limitations at least to a minimum extent. The resulting structure of the combination, when an attachment element, such as 20a of Niese, is not provided would provide an indentation structurally and functionally meeting the claimed limitations.

Regarding the limitation with respect to a trapped sound area in the compressed state, it is believed that such a limitation would be obvious to the combination, since at least a minimum amount of sound would be trapped by the indentation of the resulting combination, when no additional attachment structure is provided in the indentation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will

be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams
9/22/06



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

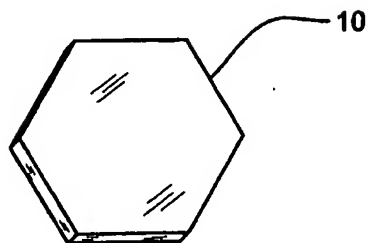


FIG. 1 (Prior Art)

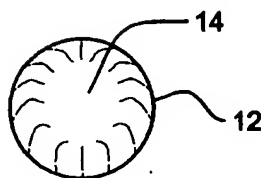


FIG. 2 (Prior Art)

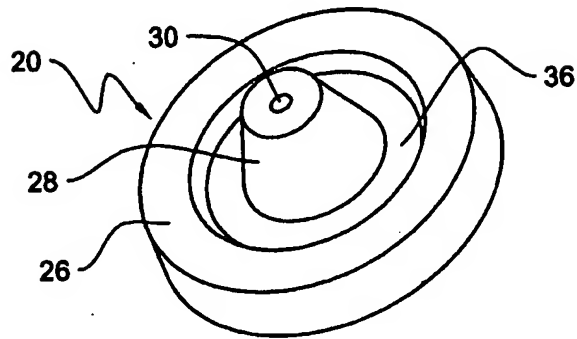


FIG. 3

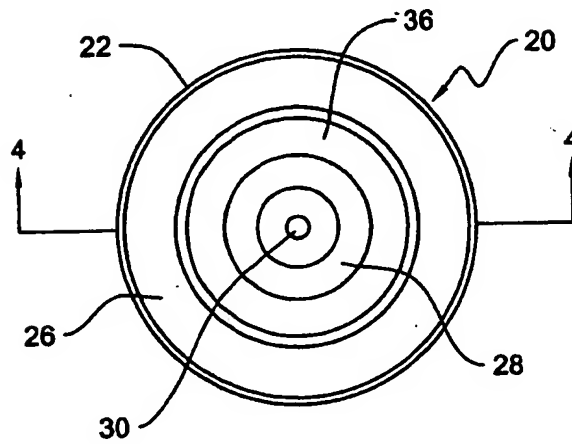


FIG. 4

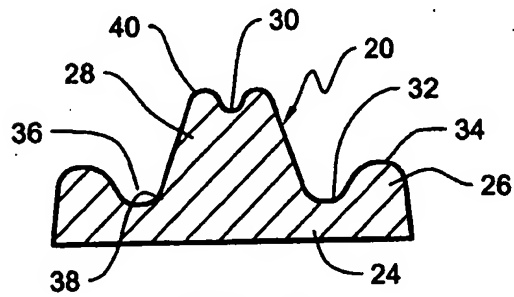


FIG. 5

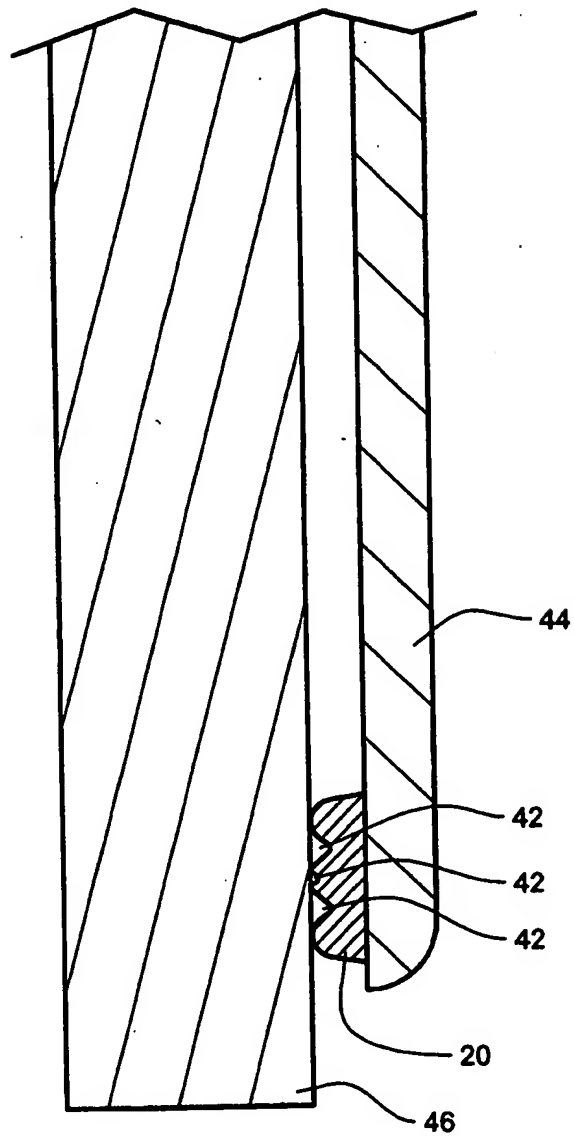


FIG. 6